

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X	
UNITED STATES OF AMERICA,	: 13-CR-612(ENV)
	: .
-against-	: United States Courthouse
	: Brooklyn, New York
	: .
MALAK NESEEM SWARES	: Friday, December 16, 2016
BOULOS AND AMGED KAMEL	: 11:00 a.m.
YONAN TAWDRAUS,	: .
Defendants.	: .
- - - - -X	

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE ERIC N. VITALIANO
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government:	ROBERT L. CAPERS, ESQ. United States Attorney Eastern District of New York 271 Cadman Plaza East Brooklyn, New York 11201 BY: DAVID C. PITLUCK, ESQ. Assistant United States Attorneys
For the Defendant:	BRUNO & FERRARO Attorneys for the Defendant - MALAK NESEEM SWARES BOULOS 261 Park Avenue Rutherford, New Jersey 07070 BY: JOHN J. BRUNO, ESQ.

For the Defendant: LAW OFFICE OF NORMAN TRABULUS
 Attorneys for Defendant -
 AMGED KAMEL YONAN TAWDRAUS
 345 Seventh Avenue, 21st floor
 New York, New York 10001
 BY: NORMAN TRABULUS, ESQ.
 BY: ALEXANDRA TSEITLIN, ESQ.

Court Reporter: Angela Grant, RPR, CRR
 Official Court Reporter

Proceedings recorded by computerized stenography. Transcript
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1 (In open court.)

2 (Defendants present in open court.)

3 COURTROOM DEPUTY: Next case on the calendar is
4 USA versus Boulos, Tawdraus and AMA United Group. Case
5 number 13-CR-612 on for a sentencing.

6 Will the parties please note their appearance
7 beginning with government counsel.

8 MR. PITLUCK: Good morning, Your Honor.

9 On behalf of the United States, David Pitluck.
10 And with me at counsel table is Jared -- whose last name I'm
11 going to --

12 MR. MANEGGIO: Maneggio. Good morning, Judge.

13 MR. PITLUCK: I didn't want to butcher that.

14 Good morning, Judge.

15 THE COURT: Good morning.

16 You're all by yourself today, Mr. Pitluck, aside
17 from Officer Maneggio?

18 MR. PITLUCK: I'm sorry?

19 THE COURT: You're all by yourself today?

20 MR. PITLUCK: I am.

21 THE COURT: You got rid of DuCharme?

22 MR. PITLUCK: He sends his regrets. He is
23 traveling. But he's very much aware of all of the issues
24 and has been involved so he apologizes for not being here.

25 THE COURT: Tell him we're going to hold that

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1 against him.

2 MR. PITLUCK: I already told him that, Judge.

3 MR. BRUNO: Good morning, Your Honor.

4 On behalf of Mr. Boulos, John Bruno.

5 MR. TRABULUS: Good morning, Your Honor.

6 On behalf of Mr. Tawdraus, Norman Trabulus. And
7 on Mr. Tawdraus' other side is Alexandra Tseitlin, second
8 counsel in this case.

9 MS. TSEITLIN: Good morning, Your Honor.

10 THE COURT: Good morning.

11 COURTROOM DEPUTY: Counsel for both sides are
12 present, including defendants.

13 We also have an Arabic interpreter who needs to
14 note his appearance for the record and also needs to be
15 sworn.

16 (Interpreter sworn.)

17 COURTROOM DEPUTY: Please state your name for the
18 record.

19 INTERPRETER KANE: Mansour Kane.

20 COURTROOM DEPUTY: Thank you.

21 THE COURT: Welcome. Always a pleasure to have
22 interpreters who do such marvelous work for us and necessary
23 work.

24 Mr. Bruno, you got through the tunnel and gridlock
25 alert day?

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1 MR. BRUNO: Yes. Yes. Took a different route
2 today.

3 THE COURT: That's probably a good idea.

4 All right. Defendants are ready for sentencing?

5 MR. BRUNO: Yes.

6 Does the Court have a preference?

7 THE COURT: The Court has no preferences other
8 than whatever Mr. Villanueva is happiest about so we'll
9 proceed from there.

10 What we're going to do is given the obvious
11 overlap, we're going to take responses on all three cases at
12 the same time and we will deal with those responses as they
13 come. So the first thing that I want to establish on the
14 record is whether or not anyone believes, any party, that
15 they are entitled to a Fatico hearing and are requesting
16 one.

17 MR. PITLUCK: No, Your Honor.

18 MR. TRABULUS: No, Your Honor.

19 MR. BRUNO: No, Your Honor.

20 MR. TRABULUS: Your Honor, when Your Honor
21 indicated three cases, I believe Your Honor was referring to
22 the corporation.

23 THE COURT: The corporation.

24 MR. TRABULUS: Now, it's true that the plea for
25 the corporation was entered in by the individual defendants,

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1 but I don't know that any counsel here is representing the
2 corporation.

3 THE COURT: We can't figure that out either so up
4 until now, Mr. Trabulus, it was masked on the record, but
5 you've now exposed it.

6 MR. TRABULUS: Okay. Thank you.

7 THE COURT: So given the coincidence of interests
8 here, I'm appointing you and Bruno to be the counsel for the
9 corporation.

10 MR. TRABULUS: Okay. Okay.

11 MR. BRUNO: I accept that, Judge.

12 THE COURT: Without fee.

13 MR. TRABULUS: Understood.

14 THE COURT: It's pro bono. I don't think
15 corporations are entitled to CJA so.

16 MR. TRABULUS: I thought that perhaps the
17 government might produce Mr. Astafanos to speak for it.

18 THE COURT: You're jumping in very far ahead,
19 Mr. Trabulus.

20 MR. TRABULUS: Thank you.

21 THE COURT: In any event, let me next establish on
22 the record, and Officer Maneggio will help us on this, that
23 whether all parties have received a copy of the Presentence
24 Report. There's at least one addendum I believe, right?

25 MR. MANEGGIO: Yes, for Tawdraus.

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1 THE COURT: Does anybody else have an addendum?

2 MR. MANEGGIO: No, Judge.

3 THE COURT: Just in the case of Mr. Tawdraus,
4 that's an addendum.

5 MR. TRABULUS: Yes.

6 THE COURT: And, most importantly, I want to
7 establish on the record that counsel have had a full and
8 fair opportunity to review the Presentence Report with their
9 client.

10 MR. TRABULUS: Yes, Your Honor, I have.

11 MR. BRUNO: Yes, Your Honor, we have.

12 THE COURT: Let the record also reflect that
13 probation has not made available to the Court any
14 confidential information about the facts and circumstances
15 of this offense or the personal characteristics or history
16 of the defendants that have not been shared with each of the
17 individual defendants so that we are working off the same
18 record.

19 Now, with respect to that record, I take
20 objections and exceptions in three parts. The first area of
21 inquiry with respect to the individual Presentence Report
22 are any objections or exceptions to those paragraphs that
23 relate to the offense of conviction and the personal
24 characteristics and history of the individual defendant
25 named in the PSR.

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1 Any objections or exceptions to those?

2 MR. TRABULUS: Yes, Your Honor. I think the -- in
3 my submission, which was under seal, originally filed on
4 May 11th, I demonstrated respects in which the offense
5 conduct portion was, in my view, in our view, omissive.

6 I also noted that there was an error in the
7 Presentence Investigation Report insofar as it indicated
8 that the defendant had been released immediately, whereas,
9 in fact, he had spent either 36 or 37 days at MDC. So that
10 was a very specific factual objection.

11 THE COURT: Were they corrected in the addendum?

12 MR. MANEGGIO: The date of release was, Your
13 Honor.

14 MR. TRABULUS: I'm sorry.

15 THE COURT: So we're doing it as amended by, in
16 your case, by the addendum.

17 MR. TRABULUS: I'm sorry, Your Honor. I've had a
18 busy week, two weeks, and I may have missed that correction.
19 I apologize.

20 So I would say that the injections or some of
21 which are really more in the nature of supplementation were
22 fully set forth in that filing.

23 THE COURT: We'll take the supplementation as part
24 of the sentencing hearing. So it will be part of the
25 hearing, but there isn't -- you're referencing the one error

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1 of commission has been corrected, and what you believe are
2 other relevant facts you will have the opportunity to
3 present to me during that portion of the hearing this
4 morning.

5 MR. TRABULUS: Yes, Your Honor.

6 THE COURT: Let me move on to -- and Officer
7 Maneggio, I'm going to ask you to refresh us on these two
8 items with respect to each defendant, the area relating to
9 the computation of the offense level. Taking objections and
10 exceptions with respect to those paragraphs and to the
11 recommendation of probation, and Officer Maneggio will fill
12 in for us now what those recommendations were.

13 MR. MANEGGIO: I apologize, Judge.

14 THE COURT: Offense level.

15 MR. MANEGGIO: The total offense level of 23.

16 THE COURT: And this is on all three defendants?

17 MR. MANEGGIO: Yes, Judge, all two. Both, Judge.

18 THE COURT: Both defendants?

19 MR. MANEGGIO: Yes. A total offense level of 23
20 with a guideline range of 46-to-57 months.

21 THE COURT: We're going to get to the Criminal
22 History Category, but the first area is offense level. With
23 respect to Defendants Boulos and Tawdraus it's at 23.

24 Any objections or exceptions to those paragraphs
25 or to that recommendation?

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1 MR. TRABULUS: Well, I believe that under the plea
2 agreement it was to be 21 and that was a global plea. So I
3 believe that that is correct. But in terms of the
4 computation in terms of the guidelines, no, there is no
5 objection.

6 THE COURT: The global -- we used to take them
7 originally, they were classified here at least in this
8 district as departures. Nationally now they're classified
9 as variances for whatever reason. So it doesn't really
10 change the algebra of the guideline itself, but it's taken
11 into account as a two-level reduction for purposes of
12 computing the guideline range, if you will.

13 So the actual offense level that goes on the J&C
14 will be level 23.

15 Any objection or exception to that?

16 MR. PITLUCK: No, Judge.

17 THE COURT: Hearing none, that recommendation is
18 adopted.

19 And, lastly, the paragraphs relating to the
20 computation of the Criminal History Category and the
21 recommendation of Criminal History Category I, any objection
22 to that?

23 MR. TRABULUS: No, Judge.

24 MR. BRUNO: No, Your Honor.

25 THE COURT: And that is adopted as well.

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1 Now, the record will reflect that -- I somewhat
2 lost count in your case, Mr. Trabulus, of the various
3 filings that have been made. I think you filed three, three
4 submissions, including exhibits. The Court acknowledges
5 receiving that.

6 Mr. Bruno, you have one with exhibits. The Court
7 acknowledges receiving that, and, obviously, we have the
8 Presentence Report and the addendum to it in connection with
9 Mr. Tawdraus. We have letters from the government with
10 respect to Defendants Boulos and Tawdraus.

11 I don't believe we have written submissions with
12 respect to AMA.

13 MR. PITLUCK: We did not file anything related to
14 AMA, Judge.

15 THE COURT: And counsel appointed today didn't
16 file any?

17 INTERPRETER KANE: I'm sorry, Your Honor. I'm
18 sorry. I didn't hear what --

19 MR. PITLUCK: I said we didn't file anything
20 related to AMA United.

21 MR. TRABULUS: And, of course, we haven't, Your
22 Honor.

23 THE COURT: Have I correctly gotten all that you
24 think we have filed?

25 Yes? Everybody agrees?

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1 MR. BRUNO: Yes.

2 MR. TRABULUS: Yes.

3 THE COURT: Now, and I'll let counsel confer on
4 this. Who wishes to be heard first on sentencing,
5 Mr. Boulos or Mr. Tawdraus?

6 MR. TRABULUS: As between the two of us, I will go
7 first, Your Honor.

8 THE COURT: And that's in accord with you,
9 Mr. Bruno?

10 MR. BRUNO: Yes, Judge. That was my original
11 question, if the Court had a preference --

12 THE COURT: That's what you meant?

13 MR. BRUNO: Yes.

14 THE COURT: I have no preference. In these
15 situations, I only have a preference if counsel disagree.
16 If counsel agree, I am more than happy to listen.

17 And what I intend to do, Mr. Pitluck, I'm going to
18 ask you about this at this point. Do you wish to be heard
19 seriatim or do you wish to be heard at the conclusion of the
20 remarks of both Mr. Trabulus, Mr. Bruno and their clients?

21 MR. PITLUCK: I'd prefer to go last, Judge.

22 THE COURT: At once?

23 MR. PITLUCK: At once and I can respond to
24 everything. And if the Court has any questions on the
25 corporate resolution, which I probably won't be able to

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1 answer, I will address those as well.

2 THE COURT: So much paper generated for something
3 that doesn't exist anymore is remarkable, but we'll talk
4 about that later.

5 Mr. Trabulus, then, we will hear you first on
6 behalf of Mr. Tawdraus. My normal practice is that I would
7 allow Mr. Tawdraus to speak himself before we hear
8 Mr. Bruno.

9 MR. TRABULUS: Thank you, Your Honor.

10 I, too, prefer not to go last or to have the
11 government go first. And I hope that if the occasion
12 arises and it becomes necessary, I might be given an
13 opportunity to speak if something he says surprises me.

14 Your Honor, there's been a lot of paper, and I
15 think virtually everything that I am saying now is found in
16 those papers. But to just lay it out, again, my point is
17 that the time that he's already served, which is either 36
18 or 37 days, keep on coming up with a different number,
19 suffices to comply with the purposes of 3553(a).

20 And I'd like to start with the nature of the
21 offense. And this was not a plan of longstanding to
22 violate U.S. law. It was a plan of months' standing to try
23 to negotiate a contract which was going to be between a
24 supplier in the United States and the Egyptian government
25 for the purposes of munitions, which I'm sure the Egyptian

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1 government would never have purchased without a license.

2 I've indicated in my filings who it was who first
3 suggested doing it without a license. The purpose of all
4 that is not to raise some kind of defense which defendant
5 decided not -- elected not to assert, but just to
6 illustrate --

7 THE INTERPRETER: I'm sorry. Can I face you or I
8 mean...

9 MR. TRABULUS: Face me? It's up to the Judge.

10 THE COURT: You can. Whatever facilitates your
11 ability to translate for Mr. Tawdraus and Mr. Boulos the
12 Court is happy to allow you to do.

13 MR. TRABULUS: I'm just going to stand back a
14 little bit if that's okay, Your Honor. And it may mean that
15 I'm not facing Your Honor.

16 THE COURT: Once you get that far back I can't see
17 anyway so it doesn't matter. You can get as far back as you
18 like.

19 MR. TRABULUS: So the point that I'm getting at,
20 and I'm going to say at least Mr. Tawdraus, and I'm saying
21 at least with -- not suggesting that the situation was any
22 different from Mr. Boulos, but Mr. Tawdraus is my client.
23 He's the one that I've spoken to. He did not enter the
24 United States. And Your Honor has also heard how he came to
25 enter the United States expecting to violate any law here.

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1 He did violate a law here, there's no question
2 about it. And we're not taking away from that. He learned
3 about that when he was here. He was facing a situation
4 which basically he was trying to save a contract. He had a
5 deadline that the Egyptian government factory in Egypt had
6 given him for the samples.

7 What he did, Your Honor, and Mr. Pitluck took us
8 to task and actually misquoted our submission. It's true
9 Mr. Tawdraus conceived of it at the time as something
10 relatively minor that he was doing, but he knew it was
11 wrong. And whether it was minor or not, that really, I
12 guess, is for somebody else to decide, but it's not
13 inaccurate to say that. And I guess the reason he thought
14 it was minor was that he wasn't talking about doing an
15 illegal contract. He wasn't talking about shipping
16 something that was dangerous. He wasn't talking about
17 shipping that was -- he wasn't doing -- shipping something
18 that was actually going to be made into munitions. It was a
19 sample. It was a sample which a soccer factory requested
20 just as the undercover had earlier requested a sample and
21 directed that it be shipped to him without a license.

22 So, Your Honor, that's the front end of it. The
23 back end of it, the back end of it is that there was never
24 any plan, any conception that this ultimate shipment, that
25 the contract itself, the munitions would ultimately be

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1 shipped without a license. I mean, it's, it's like making a
2 contract with the United States government to buy heroin
3 from it. It doesn't happen. Things like that don't -- it
4 can't happen. The Egyptian government isn't going to risk
5 something like that. They're not going to risk having a
6 contract aborted. They're not going to risk offending the
7 United States which paid -- gave it billions of dollars to
8 buy munitions and buy military stuff. They're not going to
9 risk that.

10 And I know in the government's submission they
11 talked about how these are pretty ugly things, cluster
12 bombs, land mines, and they are. I mean, even just -- they
13 are. There's no question about it. We have them -- I don't
14 know whether we have those things anymore in our military
15 arsenal. We certainly have things that are designed to kill
16 people and that's not very pretty. But governments and
17 militaries are supposed to have those things. They protect
18 those nations and they protect those people. So these were
19 not people who were going to ship something to whomever.
20 Their connection was with the Egyptian government.

21 Now, in terms of whether it's minor or major in
22 the guidelines, the guideline range would be the same as I
23 understand. If instead of what happened the defendants had
24 actually shipped 10,000 rocket launchers to the Taliban or
25 bombs to Iran, and these are one size fits all guidelines, I

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1 guess they don't come up often enough for the sentencing
2 commission to spend as much time on them as they do on drugs
3 and stuff like that. So what you've got is something that
4 doesn't make fine differentiations. You don't have a
5 difference between heroine and marijuana or between
6 50 kilograms and 5 grams. But you have, instead, an
7 application note which authorizes departures, and it fits
8 precisely this case.

9 And there are other cases that I cited to Your
10 Honor, Groos case, the Sevilla case. And, Your Honor, I
11 would submit to you that no one would consider it to be
12 going out on a limb on the facts here to impose a
13 noncustodial sentence.

14 The other thing that I want to tell Your Honor,
15 and I don't know how well it can be conveyed. It showed up
16 some ways in the letters on behalf of Mr. Tawdraus. I truly
17 believe, Your Honor, that probably very infrequently has
18 Your Honor had the occasion of sentencing a man or will have
19 the occasion of sentencing a man with a character as fine as
20 his. And it becomes apparent to anybody who knows him who
21 spends time with him, he's a gentle, kind man who made very
22 good use of his time after the government agreed to his
23 release for which I greatly thank the government, as does
24 he.

25 The only thing he failed to do that he tried to do

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1 during that time, Your Honor, was to secure an opportunity
2 to do volunteer work for severely disabled people who
3 couldn't move or talk, like his sister was because he cared
4 for her. And the reason he couldn't do it was because of
5 these pending charges.

6 Your Honor, again, I've made my suggestion that
7 for purposes under the facts of this case and under the
8 nature of this particular guideline, notwithstanding that if
9 it comes in higher, under the facts and circumstances of
10 this case, he's already been punished sufficiently to comply
11 with the purposes of 3553(a).

12 And thank you, Your Honor.

13 THE COURT: Thank you, Mr. Trabulus.

14 Now, Mr. Tawdraus, obviously, you know
15 Mr. Trabulus has been a vigorous advocate on your behalf.
16 But notwithstanding that fact, under the law in the United
17 States, an individual defendant has a personal right of
18 statement, the ability to address the sentencing judge
19 before the judge passes sentence. It is a right to speak,
20 not an obligation to speak. But if you do wish to avail
21 yourself of your right, now is your opportunity to speak.

22 DEFENDANT TAWDRAUS: My name is Amged Kame1
23 Tawdraus. And I am now in front of you, Your Honor, and at
24 this sentencing hearing.

25 And I wish from you, Your Honor, I would like --

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1 I'm sorry. I would like you, Your Honor, to listen to me.
2 What I just told you, Your Honor, before. And today, I came
3 today and to allow me, Your Honor, to tell you my, my
4 thought and my thought from my heart.

5 And you know, Your Honor, all what happened, all
6 things that is what happened in this case and there is no
7 going back from this thing, Your Honor. I apologize from
8 you -- I mean to you and to the American people. That's why
9 I want to be -- I want to be a very law abiding person. And
10 I want to -- and I want to tell you, Your Honor, and I want
11 to propose, I want to do things, positive things, Your
12 Honor.

13 And I work all week first. I'm an inspector, a
14 technical inspector. And at the end of the week, and I work
15 at a gas station. And I get, lastly, from -- I receive
16 lately --

17 MR. BRUNO: Judge, the interpreter that we've used
18 in the past is raising his hand, and my client is even
19 having difficulty understanding this interpreter. We're
20 having a lot of problems.

21 THE COURT: Do you have an interpreter?

22 MR. TRABULUS: Yes, Your Honor. This is Mr. Sassi
23 who has been throughout working with us and has been, Your
24 Honor, through a mixup he was not assigned by the
25 interpreter's office today. And there's no faulting here,

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1 but they got used to each other's dialects and so forth.

2 So if Mr. Sassi may come toward, Your Honor, and
3 he can be sworn too. I have no objection to that. I
4 brought him here earlier today on my CJA because we wanted
5 to meet and discuss some things prior to sentencing and so
6 that's why he's here.

7 THE COURT: Given the difficulty, Mr. Pitluck, do
8 you have any objection to that?

9 MR. PITLUCK: No, Your Honor.

10 Mr. Sassi has been present for most of our
11 conferences. I'm fine with that.

12 INTERPRETER SASSI: Your Honor.

13 THE COURT: Good morning.

14 COURTROOM DEPUTY: Please note your appearance for
15 the record.

16 And I think you've been sworn in this case before?

17 INTERPRETER SASSI: Yes.

18 COURTROOM DEPUTY: Just note your appearance for
19 the record, please.

20 INTERPRETER SASSI: My name is Brahim Sassi.

21 B-r-a-h-i-m. Last name Sassi, S-a-s-s-i.

22 Good morning.

23 COURTROOM DEPUTY: Thank you.

24 THE COURT: Good morning, Mr. Sassi.

25 INTERPRETER SASSI: Good morning, Your Honor.

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1 DEFENDANT TAWDRAUS: (Through Interpreter Sassi)

2 Your Honor, I work all the week as a technical
3 agent in a construction company. And on a weekend I work at
4 the gas station. Finally, I receive from the service
5 evaluation as a bachelor degree as an electric engineer.
6 And now at this present time I continue my studying through
7 the Internet so to improve my education, so I can give a
8 positive effort and endeavor for the American companies so
9 they respect my work and my services.

10 Your Honor, I want -- I will not save an effort
11 for myself to study and to improve my situation and my level
12 and to realize all my wishes and my dreams in America is the
13 land of opportunity. I would like to tell you that I'm --
14 that forgive me, and I am remorseful about that. And I do
15 thank you for that.

16 THE COURT: That completes the statement,
17 Mr. Sassi?

18 MR. TRABULUS: Are you done?

19 INTERPRETER SASSI: Yes, Your Honor, that's the
20 whole statement.

21 MR. TRABULUS: Yes, sir. Thank you.

22 THE COURT: Thank you very much.

23 Mr. Bruno, do you wish to be heard on behalf of
24 Mr. Boulos?

25 MR. PITLUCK: I'm sorry, Your Honor. I don't mean

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1 to interrupt. I just want to make it clear that up to this
2 point the defendants, even though there may have been some
3 difficulty understanding the translator, have been able to
4 understand the proceedings to this point. And if there's
5 anything that they missed, we can go back. I just want to
6 make sure that the record is clear on that.

7 THE COURT: Mr. Trabulus and Mr. Bruno, if there
8 were difficulties in what Mr. Pitluck is raising, if there
9 were difficulties in the interpretation prior to the time of
10 Mr. Sassi's arrival, is there anything that we must touch
11 base again on or are we free to go forward with the
12 understanding that both defendants have understood the
13 proceedings up to that point and are content to proceed
14 further?

15 MR. TRABULUS: May I just make inquiry of my
16 client?

17 THE COURT: Yes.

18 (Brief pause.)

19 MR. TRABULUS: Yes, Your Honor, we're okay.

20 THE COURT: Mr. Bruno? Both?

21 MR. BRUNO: Judge, I think it would help if I -- I
22 think with the dialects with the gentleman that filled in, I
23 think it would be best suited to stand closer to Mr. Boulos.
24 Mr. Boulos has another interpreter that he's used in the
25 building, and we tried to request him today. He did not get

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1 here so I think it makes sense. There's problems with the
2 dialect, but I think if we go slowly, we've always been able
3 to communicate very well in Mr. Trabulus' office and
4 whenever we've met so.

5 THE COURT: So the question is whether or not
6 there's anything that we have to go back to.

7 MR. BRUNO: No. No.

8 THE COURT: All right. Then we're ready to go
9 forward.

10 MR. PITLUCK: Thank you, Judge.

11 THE COURT: And then going forward, Mr. Bruno.

12 MR. BRUNO: Thank you, Judge.

13 THE COURT: It's your cue.

14 MR. BRUNO: Judge, before I address the Court with
15 my comments, Father Moises is here today, and he gave me a
16 letter that did not make it to the Court or to the
17 government. And if I could take the liberty of reading a
18 very brief letter.

19 THE COURT: Sure.

20 MR. BRUNO: Thank you, Judge.

21 This is from the Coptic Orthodox Church in Cedar
22 Grove, New Jersey. Father Moises Boghdady testifies that
23 Mr. Malak Boulos is an active member of our church. He
24 volunteered 70 hours of community service at our church
25 taking the holy bread. Mr. Boulos is a faithful and

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1 dedicated person. He is well structured and persistent, and
2 he goes out of his way to help others. He serves with a
3 joyful and giving spirit. Mr. Malak is loved and
4 appreciated by everyone.

5 Mr. Boulos' family, his wife Raina, his two
6 daughters, are well known to us and to the congregation.
7 The Boulos family attend all church services and are loved
8 and respected by everyone. And this is signed Father Moises
9 Boghdady with his seal. And he's in court today.

10 THE COURT: Thank you, Mr. Bruno.

11 MR. BRUNO: Before Your Honor imposes sentence,
12 Your Honor needs to weigh the aggravating and mitigating
13 factors. Certainly, there's a need to deter Mr. Boulos and
14 others from committing this type of offense.

15 On the mitigating side, I think it's fair to say
16 that Mr. Boulos did not intend to harm anyone. He did not
17 intend to harm the United States in any way. He has no
18 history of prior delinquency or criminal activity as an
19 adult prior to this incident or subsequent to this incident.
20 He has accepted responsibility and he would respond
21 favorably to probation. He is unlikely to re-offend. And I
22 do not believe that there's a risk that he will re-offend.
23 And I base that on his unblemished and spotless background.

24 Mr. Boulos is 45 years old. He's married with two
25 children. He's gainfully employed, working for meager

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1 wages, but he works nonetheless. As I indicated in my
2 letter of submission, he lost a decent paying job at Lukoil,
3 but he has filled in the gaps of employment by working
4 various jobs for meager wages.

5 He's well-educated. He loves this country. His
6 citizenship in this country is pending. He's applied for
7 asylum prior to being charged criminally, which is
8 indicative of his loyalty to this country. He is remorseful
9 and accepts full responsibility for his actions. He's a
10 very religious young man, and he's very active in his church
11 and community.

12 Judge, some people find religion on the day of
13 their sentencing. I see it all the time, and I've been
14 doing this for 36 years now. And it's, it's incredible how
15 spiritual people get the day they have to face a judge.

16 I know him from the church. My office does a lot
17 of legal work for the church. And prior to this case I
18 could tell you with certainty that he's a very religious man
19 and did not bring the priest here today by way of urging him
20 to show that he knows him. These people have a very, very
21 cohesive relationship and he does with the entire church.

22 Judge, everybody called me leading up to this
23 sentencing that Judge Vitaliano will find forgiveness in his
24 heart, and his entire church is praying that you're going to
25 impose a period of probation. I promise you, Judge, that

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1 the government will not lose sleep if you impose a
2 probationary term.

3 He's a good man. And I got a call last night and
4 it was so out of character for Mr. Boulos to be excited
5 because he's such a mild mannered person. And I had to hold
6 the phone away from my ear because he was so excited and he
7 was crying and I couldn't make out what he was saying. And
8 he put the priest on the phone who was with him at his home
9 last night, and I asked the priest to put Malak back on the
10 phone after I spoke to him and deciphered what he was trying
11 to say. He was very upset and excited because he got word
12 yesterday, last night, that his dad passed away last night.
13 He did not ask me to adjourn the sentencing. His dad was in
14 Egypt when he passed. And he suffered a lot, Judge.
15 Obviously, the death of his father had nothing to do with
16 this case. He was young and had an unexpected heart attack.

17 This man spent, I believe, 22 days in lockup
18 before he was released. Those 22 days were like an
19 eternity. He was confined to his home for a year. He --
20 until this day he still wears the electronic monitoring.

21 Judge, you won't regret it if you impose a period
22 of probation. He will not let you down. He's a good
23 person. I respect the government, and they said that he
24 committed this offense; I agree. If you buy a home for a
25 hundred thousand and you sell it for 200,000, I guess maybe

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1 there's a gray area or fine line whether you're doing it
2 out of greed or you just want to make money or you want to
3 be a billionaire like everybody else wants to be. But
4 they're right, he wanted to make money.

5 And I've got to tell you, I've got to thank the
6 government for the way they've treated us and for their
7 professionalism and always getting from the beginning of the
8 case the discovery that we were having -- Mr. Trabulus and I
9 were having difficulty getting, but everything that we
10 requested and every time we needed to communicate, I want to
11 thank the government for being fair.

12 And I want the Court to know that not only am I a
13 lawyer, but I'm a mind reader, Judge, and I'm reading the
14 mind of the government that they're not going to lose a
15 minute's sleep if you give a probationary term.

16 And I know Mr. Boulos, Judge, wants to just say a
17 few words to you.

18 THE COURT: Thank you, Mr. Bruno.

19 First of all, Mr. Boulos, we extend our sympathy
20 on the loss of your father, certainly at this time of year
21 and certainly at this critical moment in your own life.

22 And I will, before I hear from you, I want you to
23 know that, obviously, Mr. Bruno has been in your corner and
24 has advocated for you, and you do have a right to speak to
25 the sentencing judge before I impose sentence. But I want

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1 you to understand it is not an obligation to speak. There's
2 no penalty if you do not speak, but if you do wish to speak,
3 now is your opportunity.

4 INTERPRETER SASSI: He handed me a paper. Just a
5 line translation, but we have the text.

6 THE COURT: He has to pronounce it and you can.

7 INTERPRETER SASSI: Yes, Your Honor.

8 THE COURT: And I assume it's in Arabic and he can
9 read it in Arabic and you translate for us.

10 DEFENDANT BOULOS: Your Honor, Judge Vitaliano.
11 My name is Malak Neseem. I'm standing before you today for
12 several reasons. First of all, I want you to know, to know
13 how sorry I am for breaking the law. What I did was wrong
14 and I would like to declare that I am very sorry. I know
15 you must punish me. I am willing to accept whatever
16 punishment, whatever punishment you feel you must sentence
17 me to.

18 Your Honor, although I broke the law, I never
19 intended to harm United States or anyone. I have never
20 stopped thinking about the consequence of my actions. I
21 came to the United States on 12/12/12. I apply for asylum
22 in 2013 because I feel allegiance with this country and I
23 would like my kids be grown here because it's a country of
24 safety, far away from the persecution of my country because
25 I suffered and I went through a lot of ordeals for me and my

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1 wife. We suffered ordeals in my country. And I never
2 expected that one day I would be accused of a wrongdoing.

3 And I stayed 22 days in the Metropolitan Detention
4 Center. It was very horrible time for me and my family.
5 I -- then I said I was confined to my home from October,
6 October 20, 2013 to September 2014. It was so difficult
7 too. I lost a good job at Lukoil in New Jersey. That job
8 helped me pay the rent and support my family.

9 I have had plenty of time to think about why I
10 will never break the law again and what can happen to me as
11 a result. Your Honor, you have to, please, I understood my
12 lesson very well and I will make you proud of me. I will
13 never deceive you one more time.

14 If the thought was given to me to stay with my
15 family and to continue my work, so my -- would be a
16 disruption and breakdown of my family. And to be a very
17 productive citizen and I give back to the community in this
18 country, a country that I love since my childhood.

19 And, finally, Your Honor, I would like let you
20 know that I didn't break the law at all during 45 years my
21 life, only the exception of this wrongdoing.

22 And I do thank you, Your Honor.

23 THE COURT: Thank you, Mr. Boulos.

24 All right. That brings us to you, Mr. Pitluck.

25 Do you wish to be heard on behalf of the United States?

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1 MR. PITLUCK: Very briefly, Judge.

2 This is a case where I would have loved to have
3 stand up before the Court and said Your Honor has our
4 submissions, Your Honor has our position and we don't oppose
5 a downward departure from the guidelines. Your Honor has
6 seen that we have acknowledged the personal circumstances
7 and the conduct of the defendants while they have been
8 released on bail. There are certainly no issues with that.

9 However, I feel -- we feel like we were being
10 baited into defending our case, defending our statutory
11 regime, defending the conduct that underlines the guilty
12 pleas here today. And, Judge, I don't really want to rise
13 to that bait. I think our letter clearly and accurately
14 lays out the conduct, the seriousness of it. That fact that
15 it was certainly contemplated before by the defendants and
16 the AMA United before they came into the United States.

17 And that most importantly, Judge, and I don't want
18 to lose the forest through the trees of lengthy sentencing
19 submissions where each email is parsed through to determine
20 and speculate as to what each person thought. I don't think
21 that's appropriate or necessary here.

22 What I do know is that nobody disputes the fact
23 that the defendants traveled to New York, they had a meeting
24 that was recorded. They looked at samples for very -- inert
25 samples for very, very dangerous military munitions. They

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1 sat in the back of a car in Rockefeller Center and sent them
2 to Egypt without a license.

3 Now, I would love to engage in the speculative
4 conduct of what was going to happen after these samples were
5 received. Would there been have a license, would they have
6 gone to the soccer factory? That, Your Honor, to be, as we
7 said in our letter, to be perfectly frank, is what the
8 licensing process entails. If that had been completed, we
9 wouldn't have any issues whatsoever.

10 And that's the only point that we wish to make,
11 Judge, is that this was serious conduct that was engaged in
12 the United States. I've heard both defendants admit to it
13 and acknowledge the wrongness of it. And, Judge, that's
14 what's important because this is a scheme, a regulatory
15 scheme that is very important to the national security
16 interests of the United States. And I believe that this
17 prosecution makes it clear how serious we take that. And it
18 makes clear that this applies to samples because that's the
19 tip of the iceberg, and it makes clear that the United
20 States government and its agencies cannot tolerate this sort
21 of conduct. And I'd like to leave it at that, Judge.

22 The only thing I would note beyond that, Judge,
23 for the record is I had a chance to read the Groos and
24 Sevilla cases. Those are cases that involved dual use
25 products being shipped to Iran under a different statutory

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1 regime. Those are what we call IEEPA projects, Congress
2 controlled products. These are military products. IEEPA,
3 I'm not going to pronounce the whole statute because at this
4 point, Judge, I'm too sleep deprived to remember it. But
5 that was -- certainly those cases are on point because they
6 relate to the same sentencing schemes, but those are very
7 different products. To the extent that they were -- those
8 were dual use water flow items and computer equipment that
9 were governing straight contravention of our policy.

10 So, Judge, with that I would rest on our letter
11 and the position we take in our letter and, obviously,
12 acknowledge, you know, the personal circumstances and
13 background of the defendants as we heard it here today. And
14 unless the Court has any questions for me, I'll leave it at
15 that.

16 THE COURT: No. I think I've waded through this
17 enough to get the facts and the evidence that I need to make
18 a determination. So I appreciate your offer and consider
19 your words and the government's submission.

20 MR. PITLUCK: Thank you, Judge.

21 THE COURT: All right. That being the case, the
22 Court will follow its normal practice which is to announce
23 its intended sentence, the reasons for it, particularly in a
24 case like this is important to do so. But I do it for one
25 reason and one reason alone, to the extent that with respect

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1 to any of the three defendants, I verge on an illegal
2 sentence, something that's unlawful, gives counsel an
3 opportunity to point out that unlawfulness and gives me an
4 opportunity to avoid it. It is not an opportunity to
5 relitigate any of the determinations that I make that all
6 counsel agree that are within my province to make, though
7 they are unhappy with the conclusions I reach.

8 The record will further reflect that though
9 advisory, the Court has fully consulted the guidelines
10 promulgated by the United States Sentencing Commission
11 relevant to this case. More importantly, the Court has
12 fully considered all of the objectives, standards and goals
13 set forth in Title 18, United States Code, Section 3553(a)
14 which actually controls the imposition of sentence. The
15 Court has considered the respective PSRs, presentence
16 reports that have been prepared by probation; the addendum
17 that was prepared in the case of Mr. Tawdraus. The Court
18 has also considered all of the written submissions,
19 including the exhibits that have been submitted in the
20 defense submissions on behalf of Mr. Boulos and
21 Mr. Tawdraus. The Court has fully considered the letters
22 that were submitted by the government, letter briefs
23 submitted by the government with respect to Mr. Boulos and
24 Mr. Tawdraus; heard the arguments of counsel here at the
25 sentencing hearing and the words of remorse and contrition

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1 that have been offered by Mr. Boulos and Mr. Tawdraus at the
2 sentencing hearing.

3 And this is the Court's intended sentence and the
4 reasons for it. I'll just briefly address the corporate
5 defendant, the AMA United defendant. There's not much to be
6 said there. It is a defunct corporation and existed only in
7 Egypt, consistent only of its three partners, no employees.
8 Other than this incident here in the United States, had
9 really no contact with the United States at any time and,
10 again, does not exist under the guidelines and
11 recommendation of probation, the Court, since we have to
12 close the loop again, it doesn't exist. So to what point, I
13 don't know but it's required. The Court intends to impose
14 on that defendant a period of one year's probation and a
15 statutory assessment as required of \$400.

16 Now, with respect to the two remaining defendants,
17 Mr. Boulos and Mr. Tawdraus, the Court intends to impose the
18 same sentence with respect to each of those defendants. And
19 since there is such commonality, I would list both at the
20 same time. For all of the length and dissimilarity of the
21 briefing supplied by the defense and the government, there's
22 an awful lot of agreement and I want to touch on the
23 agreement first. And it is the, you know, the principal
24 reason why we are here. That there is a statute, the
25 statute does deal with the national security of the United

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1 States. By definition it is important and there is also
2 agreement that the defendants violated that statute with the
3 requisite intent to commit a crime and, therefore, that it
4 is appropriate that there be a punishment for that offense.

5 Now, that having been said, there's a lot of
6 oddities in this case. There's undercover agents, there's
7 wiretaps, consensual wires I should say. There was a
8 search, there were Mirandized statements. The defendants
9 were allowed to, notwithstanding, return to Egypt, the
10 serious threats to the United States, then allowed to come
11 back into the United States. And in the case of Mr. Boulos,
12 he gives us a wonderful timeline by referencing the fact
13 that he entered the United States on December 12th of the
14 year 2012, 12/12/12, not arrested until October of 2013 for
15 something that happened in 2011.

16 The case seems to -- to that extent, while there's
17 so much commonality, there's also, to some extent there's
18 like a Rubik's Cube given -- and what Mr. Pitluck didn't
19 mention in his oral presentation for the Court. And this is
20 where the Rubik's Cube comes in is that in the written
21 submissions that he did reference, there is a clear request,
22 even though there is two-level global departure and an
23 acknowledgement by the government that even after adjustment
24 for the global variance, that the Court should sentence
25 nonetheless below, further below the guideline that's

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1 adopted as the applicable guideline in this case. But the
2 written submission also requests that the Court impose a
3 period of additional incarceration. That's where the case
4 seems to me begins to break down substantially.

5 This is a case, to some extent, that suffers from
6 headline bias. The word "arms" is in the case and the words
7 "Middle East" is in the case. So it is headline bias. This
8 case would be no different. There is no geopolitical
9 significance to this case. The case would be the same if
10 the munitions factory were located in Dublin or in Rome or
11 in Ottawa or in London. It matters not.

12 Now, what's at issue here is a substantial
13 regulation. A regulation that was breached. Mr. Bruno
14 shied away from the word "breached" because of greed. You
15 know, the difference between making money selling a house
16 and greed. There's no greed in making a profit unless
17 you're gouging in a regular commercial deal. But
18 notwithstanding anything else, there is greed when you break
19 the law to make money. And that's what Mr. Boulos and
20 Mr. Tawdraus did. This is like the guy with a contract with
21 the government where it calls for one-and-three-quarter-inch
22 plywood and they provide one-and-five-eighths-inch plywood
23 to save a few bucks thinking it doesn't matter. And what's
24 the doesn't matter part about this case? And the government
25 calls it speculation.

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1 Well, the government's comments about speculation
2 is what is the speculation. There is absolutely nothing in
3 this case, not a scintilla of evidence in this case to
4 suggest what the defendants said they intended to do was, in
5 fact, exactly what they intended to do. They told the
6 undercovers it, they told the government after they -- when
7 they were first spoken to, they said it after they were
8 arrested, they said it in their letters and they said it
9 again today. The objective was to engage in a contract that
10 was to be fully compliant not only with the law of the
11 United States, but with the law of Egypt.

12 Impressive in the papers is the statement that,
13 and we have two law abiding -- there's absolutely, again,
14 not a scintilla of evidence that these guys even got a
15 jaywalking ticket. That they wanted to make sure that even
16 the sample, the samples that they were sending would go
17 directly to the munitions factory because if they went
18 anywhere else, it would have violated Egyptian law,
19 substantive law, the possession. So you see the regulation
20 here that appears to be a paperwork regulation with respect
21 to samples, that's the corner is cut. It's violated, but
22 with the full understanding that if, in fact, the samples
23 produced a contract, that the contract would be fully
24 compliant with American law and would have been a contract
25 between presumably a licensed exporter here in the United

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1 States with a munitions factory run by the government of
2 Egypt which during that period of time it was a little
3 interregnum period after the fall of Hosni Mubarak. But
4 during a period of time where the Egyptian Army, which had
5 supported Mubarak and his predecessors and had been an ally
6 of the United States since the Middle East wars of the
7 1960s, an important ally of the United States in the Middle
8 East, would be putting together one ally with another ally
9 with fully licensed agreement between the two. That was the
10 intent.

11 So what do we have? I think it reads on who they
12 are, what their character is, what their objective was. It
13 plays into a guideline that is ridiculously useless. It
14 would have treated this almost like it was a bazooka, a
15 fully loaded bazooka or rocket launcher that could have
16 knocked down a plane, treated the same way as an inert
17 munitions.

18 The fact that the top of the guideline was three
19 months under the maximum sentence under the statute, and it
20 would have been the same no matter what, underscores how
21 ridiculous the guideline is. But there's an offense. At
22 the same time there's an offense and it is what Mr. Pitluck
23 tells us is that this is an important regulation because it
24 gives the United States control. That's what, that's what
25 the corner cutting was all about. It took away the

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1 opportunity of those agencies of the United States
2 government responsible for the international relationships
3 that exist between the United States at any level,
4 commercial, military or otherwise, with foreign governments
5 and agencies of those governments or commercial enterprises
6 of those governments, it took away the ability of the
7 government of the United States, which by its regulation
8 made a flat statement that it wants to be involved in those
9 determinations, took that away from the government and
10 usurped it to themselves. Why? To make money.

11 This is a case about defying regulations to make
12 money. It's not a terrorism case. Nothing was happening
13 here that would directly impact military relations or the
14 ability of the Egyptian military to do something that the
15 government of the United States didn't want. I am convinced
16 that what the defendants say is true, that that deal would
17 not have occurred unless it was fully lawful and licensed in
18 both countries.

19 So how do we punish an economic crime that has
20 serious national security overtones? The problem with the
21 government's argument for incarceration is that the best
22 argument is usually the worst argument from a sentencing
23 judge's perspective, and that's the argument of general
24 deterrence. I don't need to deter AMA. It doesn't exist.
25 No need to deter Mr. Boulos and Mr. Tawdraus even now from

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1 corner cutting. I think they understand that regulatory
2 regimes are important. The rest of their lives are what
3 they seem to be an open book and they seem to be very -- men
4 of character, God fearing and law abiding. And I don't
5 think there's much concern for the need for specific
6 deterrence.

7 There's a need to punish, there's a need to
8 promote respect for the law. And it seems to me that and we
9 recognize the difficult financial circumstances the
10 individual defendants are in. They're in a new country.
11 They're hamstrung by their -- the fact that they've been
12 involved in this case at all has been a punishment in the
13 case of Mr. Boulos that that punishment, that punishment
14 effects his family. It's a legitimate concern here. Though
15 he obviously seems to be well supported by the Coptic
16 Christian community in New Jersey and his church. His wife
17 and his two small children are basically here alone. He's
18 the breadwinner and that is his inability to continue to
19 work would be a severe handicap to that family.

20 In the case of Mr. Tawdraus, he's even in worst
21 shape to some extent. He's alone. Any kind of
22 incarceration would be harsher on him than most defendants
23 so the Court is aware of that as well.

24 So it is with respect to the two defendants,
25 Mr. Boulos and Mr. Tawdraus, it's the intended sentence of

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1 the Court to impose a period of three years' probation. The
2 Court recognizing the fact that this was economic, an
3 economic crime, intends to punish the defendants
4 economically and impose on each a fine of \$2,500 in addition
5 to the special statutory assessment on each of \$100.

6 There was mention made in the presentence
7 report -- I don't see it anywhere else -- that there might
8 be some forfeiture involved, but I can't imagine what that
9 forfeiture is.

10 MR. PITLUCK: I don't believe there's forfeiture
11 in this case, Judge, or restitution in this case.

12 THE COURT: Certainly no restitution, but no one
13 has identified, though it's been mentioned, we can't find
14 anything that would be forfeited so there will be no
15 forfeiture. The Court does impose, in addition, and it's
16 more not out of fear of them violating, but for purposes of
17 punishment, the Court is also going to impose as a condition
18 of probation six months of home confinement which will
19 certainly allow the defendants to continue to work and to,
20 among other things, attend religious observance.

21 The deputy clerk will read into the record the
22 other intended conditions of probation.

23 COURTROOM DEPUTY: The special conditions for
24 Defendant Boulos. For a period of six months the defendant
25 shall remain in his place of residence. The defendant is

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1 only authorized to leave for employment or other necessary
2 activities with the approval, in advance, of the U.S.
3 Probation Department.

4 The home detention period shall commence on a date
5 determined by the Probation Department. While serving the
6 period of home detention, the defendant shall wear
7 electronic monitoring bracelet and shall abide by all
8 technology requirements. The defendant shall pay the costs
9 of home detention to the degree he is reasonably able. The
10 defendant shall disclose all financial information and
11 documents to the Probation Department to assess his ability
12 to pay. The defendant shall make full financial disclosure
13 to the probation officer. The defendant shall not possess a
14 firearm, munition or destructive device. And if deported,
15 the defendant shall cooperate and abide by all instructions
16 of immigration authorities and may not reenter the United
17 States illegally.

18 For the Defendant Tawdraus. For the period of six
19 months, the defendant shall remain in his place of
20 residence. The defendant is only authorized to leave for
21 employment or other necessary activity in approval in
22 advance of the U.S. Probation Department. The home
23 detention period shall commence on a date determined by the
24 Probation Department. While serving the period of home
25 detention, the defendant share wear electronic monitoring

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1 bracelet and shall abide by all technology requirements.
2 The defendant shall pay the cost of home detention to the
3 degree he is reasonably able. The defendant shall disclose
4 all financial information and documents to the Probation
5 Department to assess his ability to pay. Upon request, the
6 defendant shall provide the U.S. Probation Department with
7 full disclosure of his financial records including
8 commingled income, expenses, assets and liabilities to
9 include yearly income tax returns. With the exception of
10 the financial accounts reported and noted within the
11 Presentence Report, the defendant is prohibited from
12 maintaining and/or opening any additional individual and/or
13 joint checking, savings or other financial accounts for
14 either personal or business purposes without the knowledge
15 and approval of the U.S. Probation Department.

16 The defendant shall cooperate with the probation
17 officer in the investigation of his financial dealings and
18 shall provide truthful monthly statements of his income and
19 expenses. The defendant shall cooperate in the signing of
20 any necessary authorization to release information forms
21 permitting the U.S. Probation Department access to his
22 financial information and records.

23 The defendant shall not possess a firearm,
24 ammunition or destructive device. And, if deported, the
25 defendant shall cooperate with and abide with all

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1 instructions of immigration authorities and may not reenter
2 the United States illegally.

3 THE COURT: Now, with respect to the fine. The
4 fine is due and payable immediately and at 10 percent of
5 gross income per month during the period of probation.

6 Does any side take exception or legal objection to
7 the intended sentence as announced?

8 MR. TRABULUS: No.

9 MR. BRUNO: No, Judge.

10 MR. PITLUCK: Judge, the only request we would
11 make is for the corporate defendant, I believe it was in the
12 Presentence Report as part of the plea agreement, that they,
13 the corporate defendant, AMA United, would agree to be on
14 lists related to the Department of Treasury. And I believe
15 if the Court is inclined, even though it is a defunct
16 organization, that it is important for regulatory reasons we
17 would ask for that condition to be imposed.

18 THE COURT: I think that was supposed to be read
19 as a condition of the probation.

20 COURTROOM DEPUTY: Give me one second and I will
21 do that.

22 THE COURT: That was a probation condition.

23 MR. PITLUCK: Okay. Yeah, that's fine.

24 COURTROOM DEPUTY: For AMA United Group these are
25 the following conditions: The defendant shall cooperate

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1 with and abide by all instructions of the United States
2 Department of Commerce, United States Department of State
3 and/or the United States Department of the Treasury.

4 MR. PITLUCK: The only other thing, Judge, is
5 there was an underlying indictment. I would move to
6 dismiss that at this point.

7 THE COURT: All right. We will. Let me advise --

8 MR. PITLUCK: Oh, sorry, Judge.

9 THE COURT: We'll get there.

10 MR. PITLUCK: Sometimes I forget so I want to make
11 sure I got it.

12 THE COURT: I try to remember. We'll bring you
13 all back if we forgot.

14 In any event, there is an appellate waiver or at
15 least with respect to the human defendants I believe in the
16 plea agreement. So the defendants are advised that you have
17 a right to appeal your conviction and sentence. If you
18 believe your guilty plea was involuntary, if there was some
19 other fundamental defect in it, you have a right to appeal
20 the sentence if you believe that it is contrary to law.
21 However, you have entered into a plea agreement which
22 contains an appellate waiver giving up those rights. Those
23 appellate waivers are generally enforceable.

24 If you believe, however, that your waiver is not
25 enforceable, you are free to present that argument to an

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1 appropriate appellate court. Please take further notice
2 that ordinarily any notice of appeal must be filed within
3 14 days of the entry in the clerk's office of the order or
4 judgment to be appealed.

5 And if you cannot afford to and you want to
6 appeal, cannot afford to, file a written notice. Please
7 advise the Clerk of Court and the Clerk of Court will
8 prepare and file a notice of appeal at your request.

9 Now, Mr. Pitluck, are there any --

10 MR. PITLUCK: Yes, Your Honor. The government
11 would move to dismiss the underlying indictment in this
12 case.

13 THE COURT: All right. The underlying indictments
14 in this case are dismissed. The intended sentence is
15 imposed, of course, on the basis of the reasons that were
16 stated for the intended sentence. Those reasons are
17 incorporated and adopted as the reasons for the sentences
18 imposed.

19 Is there anything further we need to attend to?

20 MR. PITLUCK: Not from the government, Judge.

21 MR. TRABULUS: Just one thing, Your Honor. And
22 I'm CJA on the case and I would just ask for a transcript of
23 this under the Criminal Justice Act. It's not going to be
24 for an appeal. To me that's inconceivable. I hope to
25 present it to his immigration lawyer and it to be presented

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1 to the immigration judge on his asylum application.

2 THE COURT: I would certainly grant your request for
3 that order. And to you as well, Mr. Bruno.

4 MR. BRUNO: Appreciate that.

5 THE COURT: If you need it.

6 MR. BRUNO: Yes, we do as well.

7 THE COURT: Anything else?

8 MR. TRABULUS: Nothing further, Your Honor.

9 THE COURT: All right, gentlemen. Much good luck to
10 you. I know you've learned your lesson. It's a hard lesson
11 to learn, but it's an important lesson and not only for you,
12 but for those who observe and find how important it is, how
13 important these regulations are to the Government of the
14 United States.

15 Good luck to you and your families.

16 Merry Christmas to you and happy holidays to all.

17 MR. PITLUCK: Thank you, Judge.

18 (Proceedings adjourned.)
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ANGELA GRANT, RPR, CRR

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter
/s/ Angela Grant January 17, 2017